


ZONING COMPLIANCE

REVIEW AND ADMINISTRATION

NOTE: FEES ARE NON-REFUNDABLE

| APPLICATION TYPE | | | |
|---|-------------------------------|---|---|
| <input checked="" type="checkbox"/> Applicable Law Review | | <input type="checkbox"/> Feed-In Tarrif (FIT) Application | |
| <input type="checkbox"/> Committee of Adjustment – Clearance of Conditions | | <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Determination of a Legally Established Non-Conforming Use | | | |
| Project Location | | | |
| Municipal Number: 2481 | Street Name: Barton | | Street Type: (Rd, St, Ave) St. |
| Street Direction: (N, S, E, W) E. | Unit #: | Lot #: | Community: Ancaster <input type="checkbox"/> Dundas <input type="checkbox"/> Flamborough <input type="checkbox"/> Glanbrook <input type="checkbox"/> Hamilton-Proper <input checked="" type="checkbox"/> Stoney Creek <input type="checkbox"/> |
| Legal Description (optional): Part Lot 26, Concession 1, Geographic Township of Saltfleet, City of Hamilton | | | |
| Applicant Information | | | |
| Applicant Name: GSP Group Inc. c/o Brenda Khes | | | |
| Mailing Address: 162 Locke Street South, Suite 200 | | City Hamilton | Postal Code L8P 4A9 |
| Phone Number: 289-778-1428 | | Fax Number: | |
| Applicant Signature:  | | Date: December 13, 2022 | |
| Description of Development/ Construction/ Use | | | |
| Proposed Use: 17-storey mixed use building containing 207 dwelling units and 475m2 ground floor commercial space | | | |
| Project Description/ Scope of Work: Zoning By-law amendment to permit an increase in permitted height and a reduced westerly side yard setback. | | | |
| For Feed-In Tariff (FIT) Application Only | | | |
| <input type="checkbox"/> MicroFIT (up to 10 kW) | | | |
| <input type="checkbox"/> Small FIT (> 10 kW up to 500 kW) | | | |
| <input type="checkbox"/> Large FIT (> 500 kW) | | | |

| FOR OFFICE USE ONLY | | | | | |
|---------------------|-----------------|-----------------|--------------------------|--------------------------------|-----------------------------|
| Receipt Number: | Payment Type: | Staff Initials: | Folder Number: | | Date Received: |
| Zoning Bylaw: | Current Zoning: | | Committee of Adjustment: | Site Plan Control/Subdivision: | Rezoning/ Zoning Amendment: |

ZONING COMPLIANCE REVIEW AND ADMINISTRATION

APPLICABLE LAW REVIEW:

An application for Applicable Law Review shall contain two (2) copies of a scaled and properly dimensioned site plan and two (2) copies of elevation drawings; the site plan shall indicate the parking layout, landscape areas, fencing, buildings and other structures.

The proposed development or construction project made under this application will be limited to the review for Zoning By-law compliance only. The review will be based entirely on the information, details and plans provided by the applicant. This application does not substitute the requirement of obtaining a building permit in the normal manner for the proposed development or construction project.

A Zoning Examiner will review the application to determine compliance or conformity with the applicable Zoning By-law. Please note, Zoning By-law compliance is required to be achieved prior to a building permit application being accepted by the Building Division.

COMMITTEE OF ADJUSTMENT – CLEARANCE OF CONDITIONS:

An application for Committee of Adjustment – Clearance of Conditions shall contain the following information:

- A survey prepared by an Ontario Land Surveyor (O.L.S.) showing the following information, where applicable: lot area and lot frontage of both the lands to be conveyed and the lands to be retained; location of all buildings and structures in relation to the newly created lot lines on both the lands to be conveyed and the lands to be retained; the total lot coverage on both the lands to be conveyed and the lands to be retained; and the location of all parking spaces on both the lands to be conveyed and the lands to be retained
- A copy of the Notice of Decision for the subject property, including the conditions

DETERMINATION OF A LEGALLY ESTABLISHED NON-CONFORMING USE:

Establishing entitlement to a legal non-conforming use protection is afforded under Section 34(9)(a) of the Planning Act. The establishment of legal non-conforming use requires that the use *existed*, was *lawfully* used and *continues* to be used for that purpose. The legal non-conforming use protection remains an exemption to the application of the law and must be established by the party asserting it, that being you the landowner.

The first requirement is that a real, bona fide use is made of the land by the owner seeking the non-conforming use exemption. The use must be evident at the outset when the use is established. There is no specific rule regarding the type of evidence required. However, a landowner contending an entitlement to the statutory legal non-conforming use protection is expected to provide independent cogent evidence of the existence of the non-conforming use.

The second requirement in establishing a valid non-conformity for purposes of the statutory exemption requires evidence that the land, building or structure was lawfully used for such prohibited purpose on the day of the passing of the by-law. More specifically, at the time the non-conforming use was originally established, the non-conforming use complied with all of the zoning by-law provisions or applicable legislation in effect on that date. The issuance of a building permit typically satisfies this requirement.

Accordingly, in addition to other supporting documents you deem appropriate, to support your assertion and enjoy the statutory rights to a legal non-conforming use the following documents and evidence are acceptable:

Primary Documents

- Building permit
- Local tax records - (*residential (and # of units) vs non-residential tax rates*)
- Assessment records - (*MPAC property code class*)
- Third-party affidavits
- Site specific Council decision
- Site specific legal ruling
- Municipal Licences (*where required*)
- Corporate Search/Documents - (*date of business formation, address reference*)
- Business tax records (*for continuance*)
- Business transaction receipts/records - (*for continuance*)
- Other Applicable legislative approvals (NEC, MTO, MOE, MNR, etc.) - (*where applicable*)

Secondary Documents

- Vernon Directory listings
- Dated photographs,
- Advertisements
- Newspaper articles
- Leases/Rental agreements
- MLS listings
- Construction receipts where a building permit was not required